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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO:1577 of 2007

DATED: 22-03-2007

Between:
S.Raja Rao

..... PETITIONER

AND

Kakarla Venkata Siva Rama Rao and another

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice B.Prakash Rao)

Heard both sides, and at their request, the main writ petition itself is taken up for disposal.

The petitioner herein, who claims to be the power of attorney holder of the American Baptist Foreign Mission Society in USA, files this writ petition *inter alia* seeking for a writ of certiorari challenging the award of the Lok Adalat, Bapatla, in O.S.No.118 of 2005 dated

09-11-2005 and also the consequential order in E.P.No.68 of 2006 on the file of the Principal Senior Civil Judge, Narasaraopet, as *ab initio* void, illegal and unconstitutional.

Briefly stated the facts of the case are that in between respondents 1 and 2 there has been a suit for specific performance in O.S.No.118 of 2005 which has been settled in Lok Adalat and ultimately an award was passed on 19-01-2005. The said suit was in pursuance of an agreement by the first respondent in favour of the second respondent dated 12-12-1996. Subsequently, in terms of the agreement execution was made.

The grievance of the petitioner is that since he was not a party and the property belongs to the society, therefore, a fraud has been committed and they have obtained such an award by collusion and also misrepresentation. Therefore, such decree is totally invalid. Hence, the writ petition.

Having heard the counsel and also on perusal of the material on record, admittedly, the petitioner is not a party either in the said suit or in the execution petition, therefore, the award or even the proceedings under execution would not go against the petitioner. If at all the petitioner is aggrieved or setting up a claim in respect of the very same property, it is always open for him to approach the Court and file a comprehensive suit seeking appropriate relief which can certainly be entertained and all such questions including the

coercion or fraud as alleged in the writ petition will have to be gone into. In view of the same, the very filing of the writ petition straight away by the petitioner, who is a third party as against such award, is not maintainable.

Subject to above, the writ petition is dismissed. It is needless to mention that any such suits are filed, the same shall be included into and disposed of on merits and in accordance with law uninfluenced by any of the findings in the proceedings between the respondents 1 and 2. No costs.

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B.PRAKASH RAO, J

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M.VENKATESWARA REDDY, J

22nd March, 2007

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